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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
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8 MICHAEL ESPINOSA,
9 Plaintiff(s),

10 v.

11 CORRECTIONS CORPORATION OF
12 AMERICA,
Defendant(s).

Case No. 2:19-cv-01617-RFB-NJK

Order

[Docket No. 31]

13 Pending before the Court is Defendant's motion to stay discovery pending resolution of its
14 motion for summary judgment. Docket No. 31; *see also* Docket No. 30 (motion for summary
15 judgment). Plaintiff filed a response in opposition. Docket No. 33. Defendant filed a reply.
16 Docket No. 36. The motion is properly resolved without a hearing. *See* Local Rule 78-1. For the
17 reasons discussed below, the motion to stay discovery is **DENIED**.

18 The Court has broad discretionary power to control discovery. *See, e.g., Little v. City of*
19 *Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). "The Federal Rules of Civil Procedure do not provide
20 for automatic or blanket stays of discovery when a potentially dispositive motion is pending."
21 *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). Discovery should proceed
22 absent a "strong showing" to the contrary. *Turner Broadcasting Sys., Inc. v. Tracinda Corp.*, 175
23 F.R.D. 554, 556 (D. Nev. 1997). The case law in this District makes clear that requests to stay
24 discovery may be granted when: (1) the underlying motion is potentially dispositive in scope and
25 effect; (2) the underlying motion can be decided without additional discovery; and (3) the Court
26 has taken a "preliminary peek" at the merits of the underlying motion and is convinced that the
27 plaintiff will be unable to prevail. *Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev.
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1 2013). The Court is guided in its analysis by the objectives in Rule 1 to secure a just, speedy, and
2 inexpensive determination of cases. *Tradebay*, 278 F.R.D. at 602.

3 Defendant has not made the strong showing required for a stay of discovery. Most
4 significantly, it is not clear that the timeliness issue raised in the motion for summary judgment is
5 ripe for adjudication at this time given the potential need for discovery as to equitable tolling and
6 the fact that the discovery period remains open to conduct that discovery. *See* Docket No. 34; *see*
7 *also McGee v. Donahoe*, 2017 WL 4543788, at *1 (D. Nev. Oct. 10, 2017) (Boulware, J.)
8 (addressing need for discovery as to equitable tolling). For the same reason, the Court is also not
9 convinced that Defendant will prevail on the motion for summary judgment.¹

10 Accordingly, the motion to stay discovery is **DENIED**.

11 IT IS SO ORDERED.

12 Dated: June 30, 2021

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Nancy J. Koppe
United States Magistrate Judge

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25 ¹ Conducting the preliminary peek puts the undersigned in an awkward position because
26 the assigned district judge who will decide the motion to compel may have a different view of its
27 merits. *See Tradebay*, 278 F.R.D. at 603. The undersigned's "preliminary peek" at the merits of
28 that motion is not intended to prejudice its outcome. *See id.* As a result, the undersigned will not
provide a lengthy discussion of the merits of the pending motion to compel in this instance.
Nonetheless, the undersigned has carefully reviewed the arguments presented in the motion to
compel and subsequent briefing.